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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,958	07/03/2001	Jack V. Smith	1414.47	9735
21901	7590	06/11/2010		
SMITH HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677			EXAMINER PAGAN, JENINE MARIE	
			ART UNIT 3728	PAPER NUMBER
			NOTIFICATION DATE 06/11/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

09/898,958

**Applicant(s)**

SMITH, JACK V.

**Examiner**

JENINE M. PAGAN

**Art Unit**

3728

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,7 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5 and 8-10 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-85/86)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action acknowledges the applicant's amendment filed on 2/24/2010. Claims 1-10 and 12-18 are pending in the application. Claim 11 is cancelled. Claims 1-5 and 8-10 are withdrawn from consideration.

The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second inflatable bladder" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. Claim 7 is objected to because of the following informalities: There is no mention in the specification of a second bladder. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. Claims 6-7 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cash et al. US 5,769,232 in view of Kim US 5,624,035.

**Claim 6:** Cash discloses a package that cushions items being shipped, comprising a box 11 having a hollow interior defined by a top wall, a bottom wall, and sidewalls interconnecting said top and bottom walls; a first inflatable bladder 31 within said hollow interior of said box 11, said first inflatable bladder 31/32-37 placed against each said sidewall, said first inflatable bladder 31/32-37 being disposed in protecting relation to said bottom wall of said box 11; a normally closed valve 42 (Col 2:10-14); said normally closed valve 42 having an inlet port external to said box 21 (Col 4:19-20, 47); said inlet port 21 adapted to be connected to a source of gaseous fluid under pressure 22; said inlet port 21 being in fluid communication with said first inflatable bladder 31/32-37 so that said first inflatable bladder 31 is inflated when said source of gaseous fluid under pressure 22 is connected to said inlet port 21; and said first inflatable bladder

31/32-37 when inflated engulfs said item 12 being shipped and serves as a cushioning means for said item during shipping. (Col 4:37-59 and Fig. 1-2 and 5)

**Although Cash discloses the first bladder is capable of being affixed together to form a secure chamber it does not specifically disclose the first bladder being affixed to the interior of the box and connecting to each side wall. Cash discloses the valve tube 21 extends up and out of the carton 11 but it does not specifically disclose an opening to allow the valve to extend through and be disposed in sealing engagement with the opening.**

**However Kim discloses a variety of packing arrangements that discloses the bladder 22 attached to the sidewalls 32 of the container as seen in Figure 2. Kim also discloses the valve 24 extending outside of the container through an opening.**

**It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first bladder of Cash affixed to the container as taught by Kim, since Kim suggests at Col 3:47-50 that such a modification would form an integrated structure and prevent the bladder from shifting during transport.**

**Claim 7:** Cash discloses a second inflatable bladder 31/38 disposed in said hollow interior of said box in cooperative relation to said first inflatable bladder 31/32-36 to provide an enhanced cushioning means that engulfs said item being shipped; and said box 11 having four side walls and closable flaps on the top horizontal and bottom horizontal sections. (Col 4:37-59 and Fig. 1-2 and 5)

**Claim 12:** Cash discloses said first inflatable bladder 31/32-37 being disposed in protecting relation to said sidewalls of said box 11. (Col 4:49-59)

**Claim 13:** Cash discloses said box being made of a rigid material.

**(It is known in the art that a typical shipping container is made of a rigid material to be strong enough to withstand outside elements.)**

**Claim 14:** Cash discloses said box 11 being made of a semi-rigid material.

**(It is known in the art that in view of the fact that the flaps on the container are foldable it is considered to be semi-rigid as well.)**

**Claim 15:** Cash discloses a source to inflate the bladder but it does not specifically disclose the source being a hand pump.

**However Kim discloses a hand pump 40 to inflate the bladder.**

**It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a hand pump to fill the bladder of Cash as taught by Kim, since such a modification would provide an alternate way to fill the bladder with fluidic pressure.**

**Claim 16:** Cash discloses said first inflatable bladder further comprises a bottom inflatable lumen 32 shaped to cover said bottom wall of said box 11.

**Claim 17:** Cash discloses said first inflatable bladder further comprises an inflatable lumen 37 disposed near said top wall of said box 11 and is adapted to inflate between said box 11 and said item 12.

**Claim 18:** In an alternate embodiment (Fig. 10) Cash discloses a said first inflatable bladder further comprises a bleed valve 73 disposed in fluid communications with said first inflatable bladder.

**It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a bleed valve to the bladder of Cash (Fig. 5) as taught by the alternate embodiment of Cash (Fig. 10), since such a modification would provide a means to release the fluid from the bladder.**

***Response to Arguments***

5. Applicant's arguments with respect to claims 6-7 and 12-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mickey Yu/  
Supervisory Patent Examiner, Art Unit 3728

/Jenine M Pagan/  
Examiner, Art Unit 3728